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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,954	01/09/2004	Kathleen M. Smith	ST8777US	8832
22203	7590	08/16/2005	EXAMINER	
KUSNER & JAFFE HIGHLAND PLACE SUITE 310 6151 WILSON MILLS ROAD HIGHLAND HEIGHTS, OH 44143			GARG, YOGESH C	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/754,954

Applicant(s)

SMITH ET AL.

Examiner

Yogesh C. Garg

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment received on May 31, 2005 is acknowledged and entered. The applicant has amended claims 1, 6 and added new claims 10-13. Currently claims 1-13 are pending for examination.

### ***Response to Arguments***

2. Applicant's arguments with respect to currently amended claims 1-9 have been considered but are moot in view of the new ground(s) of rejection necessitated due to amendments.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Newly added claims 11 and 13 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 11 and 13 recite, " wherein said at least one antimicrobial treatment device responds to said command by modifying data", which was neither described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the

application was filed, had possession of the claimed invention nor the applicant has pointed out support for the same in the specification in the current amendment wherein one antimicrobial treatment device responds to said command of requesting a data by modifying the requested data.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Newly added claims 10-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 10 and 11 are dependencies of claim 1 and recite limitations, "transmission of data" and "modifying data" without providing antecedence to the "request data", "received data", and "transmitted data" in claim 1 and therefore it is unclear to which of the recited data in claim 1, the limitation, "data" recited in claims 10 and 11 is related to. Claims 12-13 are rejected for the same reasons.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5.1. Claims 1-2, 4-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman et al. ( US Publication 2005/0137653), hereinafter, referred to Friedman in view of Sanaka et al. (US Patent 5,696,896), hereinafter referred to Sanaka.

Regarding claim 1, Friedman discloses an information management system (see Fig.1 and paragraph 0013) for tracking instruments, comprising:

at least one instrument tracking client, each instrument tracking client installed on a respective general purpose computer (see at least paragraph 0041 and the reference numbers "34", "36", "38", ... "42" ... "46" I Fig.1. The computer systems represented by numbers "34", "36", "38", ... "42" ... "46" are associated with different departments and correspond device/instrument tracking clients installed on computer systems to communicate with other server/computer via communication network) ;

at least one antimicrobial treatment device (See Fig.1 , reference number "12" [also at least paragraphs 0042-0043] which is a computerized medical device capable of bi-directional communication with the information system server "30").

Note: Both the claim limitation and the applicant's specification do not elaborate on the functional details of this device except that the communication server can send commands to it and receives data from it. Sending commands and receiving data is also performed by "12" medical device disclosed in Friedman. Freidman does not disclose that the device is an antimicrobial treatment device. However, in the same field of endeavor, Sanaka discloses an information management system for tracking a sterilizer, that is antimicrobial treatment device (see at least " 15 Sterilizer " in Fig.1

which corresponds to antimicrobial device, also see col.4, lines 50-57 ). In view of Sanaka, it would have been obvious to one of an ordinary skilled in the art at the time of the applicant's invention to have modified Friedman to include stabilizer along with other medical devices, such as pumps, physiological monitors, etc. because it will enhance Friedman's information management system to include monitoring the functioning of sterilizers/washers which, as known to one of an ordinary skilled in the art are used in hospitals to wash and sterilize the medical instruments .

Friedman discloses a communication server interface in bi-directional communication with the at least one instrument tracking client and the at least one antimicrobial treatment device, said communication server interface programmed to:

- request data from the at least one antimicrobial treatment device,
- transmit requests from the at least one instrument tracking client,
- receive data from the at least one antimicrobial treatment device,
- receive requests from the at least one instrument tracking client, and
- transmit data to the at least one instrument tracking client (for all above functions, (see at least Fig.1 and paragraphs 0013, 0042-0043 wherein " Hospital information system server " 30" is capable of communicating with both instrument tracking clients and the treatment device, to transmit and receive requests and data.

Regarding claim 2, Friedman in view of Sanaka discloses that the information management system according to claim 1, wherein said communication server

interface includes a communication server installed on a general purpose computer system (see Friedman, at least paragraph 0052-0053).

Regarding claim 4, Friedman in view of Sanaka discloses an information management system according to claim 1, wherein said system further comprises a computer network for connecting said respective general purpose computer system with said communication server interface (see Freidman, at least Fig.1 and paragraph 0041) .

Regarding claim 5, Friedman in view of Sanaka discloses that the information management system according to claim 1, wherein said antimicrobial treatment device is selected from the group consisting of a sterilizer and a washer (Already covered in claim 1 that the device is a sterilizer).

Regarding claim 10, Freidman in view of Sanaka discloses that the treatment device responds to said command by transmission of data from at least one device to the server interface (see at least paragraph 0013, “ .....including querying the medical device about the status of the medical device and for receiving information fro the medical device representative of the status of the medical device...”)

Regarding claim 11, Freidman in view of Sanaka discloses that the treatment device responds to said command by modifying data (see at least paragraph 0013

where it teaches that the device provides the status of the medical device and since the status keeps on changing the data provided with the changed status will be a modified data).

Regarding claims 6-9, and 12-13 their limitations are closely parallel to the limitations of claims 1-2 and 4-5 and are therefore analyzed and rejected on the same basis.

5.2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman in view of Sanaka as applied to claim 2 above, and further in view of Mukherjee (US Patent 6,314,415).

Regarding claim 3, Friedman in view of Sanaka does not disclose that said communication server in claim 2 is implemented as at least one of a Component Object Model (COM), a COM+, and a Distributed Component Object Model (DCOM). However, Mukherjee discloses use of Component Object Model (COM), a COM+, and a Distributed Component Object Model (DCOM) (see at least col.5, lines 23-46 and col.6, lines 37-col.7, line 27) . In view of Mukherjee, it would have been obvious to one of an ordinary skill in the art at the time of the applicant's invention to have modified Sanaka to incorporate Mukherjee's teaching of using Component Object Model (COM), a COM+, and a Distributed Component Object Model (DCOM) because it will facilitate insertion of components [COM] into various systems and configurations and avoiding redundant and unnecessary information and permit



changes to the user interfaces without relying on "hard coded" software (see Mukherjee, col.2, lines 19-24).

***Conclusion***

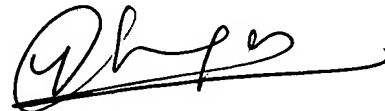
6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yogesh C Garg  
Primary Examiner  
Art Unit 3625

YCG  
August 12, 05